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SUBJECT Taxability Scholarship Funds Received by Employees

SECTION 3; 5(1); 6(1)(a)

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Please note that the following document, although believed to be correct at the time of issue, may not represent the current position of the CRA.

Prenez note que ce document, bien qu'exact au moment émis, peut ne pas représenter la position actuelle de l'ARC.

PRINCIPAL ISSUES: Whether scholarship funds received by an employee are taxable as employment income under subsections 5(1) or 6(1) of the Act?

POSITION: Question of fact.

REASONS: Previous positions.

XXXXXXXXXX

2013-049489

T. Baltkois

November 18, 2013

Dear XXXXXXXXXX:

Re: Taxability of Funds Received by Individuals

We are writing in response to your letter of June 25, 2013, concerning the tax implications of scholarship funds received by certain employees.

In the situation described, a registered charity (the "Foundation") received a donation from an unrelated person (the "Donor"). The purpose of the Foundation is to raise and maintain funds for the XXXXXXXXXX (the "Organization"). Under the terms of the donation agreement between the Foundation and the Donor, the Foundation created a scholarship for employees of the Organization pursuing post-graduate degrees in specific areas of study. The scholarship is granted by the Foundation and the administration of the scholarship is the responsibility of the Organization.

It is our understanding that the scholarship is available only to employees of the Organization and is a merit based award with a formal selection process. Scholarship recipients must agree to certain conditions, one of which is a commitment of continued employment with the Organization for a period of time following the completion of studies.

#### Our Comments

This technical interpretation provides general comments about the provisions of the Income Tax Act and related legislation (where referenced). It does not confirm the income tax treatment of a particular situation involving a specific taxpayer but is intended to assist you in making that determination. The income tax treatment of particular transactions proposed by a specific taxpayer will only be confirmed by this Directorate in the context of an advance income tax ruling request submitted in the manner set out in Information Circular IC 70-6R5, Advance Income Tax Rulings.

Generally, subsection 5(1) and paragraph 6(1)(a) of the Income Tax Act (the "Act") provide that amounts received as salary, wages, or other remuneration, and all benefits received or enjoyed by an employee in respect of, in the course of, or by virtue of an office or employment are taxable, unless specifically excluded by another provision of the Act.

Where a scholarship is available only to employees of a particular employer, it is generally our view that the scholarship constitutes an amount received in respect of, in the course of, or by virtue of an office or employment. As discussed in paragraph 4 of Interpretation Bulletin IT-334R2, Miscellaneous Payments, dated February 21, 1992, and confirmed by case law, the application of subsection 5(1) or paragraph 6(1)(a) of the Act is not limited to benefits conferred on an employee by his or her employer. These provisions may also apply in situations where an employee receives a benefit in respect of, in the course of, or by virtue of an office or employment, from a person other than his or her employer.

An employee of the Organization, who is awarded a scholarship in the manner described, would likely be considered to have received an economic benefit in respect of, in the course of, or by virtue of his or her office or employment. Whether this economic benefit is taxable, however, will generally depend on whether the primary beneficiary of the educational program funded by the scholarship is the employer or the employee.

The Canada Revenue Agency generally considers that courses taken to maintain or upgrade employment-related skills are for the primary benefit of an employer, provided that the employee is expected to resume his or her employment for a reasonable period of time after completion of the training. It is our view that this policy can be applied to situations where the courses or training taken by an employee are paid for by a person other than his or her employer and the related funding was received in respect of, in the course of, or by virtue of the employee's employment. You may wish to review Guide T4130, Employers' Guide - Taxable Benefits and Allowances, for additional information on this subject.

The determination as to whether these two conditions are met is a question of fact and must be considered on an employee by employee basis. Where the Organization determines that these conditions are satisfied, it would likely be considered the primary beneficiary of the educational training received by its employees. In such cases, the scholarship funds provided to employees would not be taxable under subsection 5(1) or paragraph 6(1)(a) of the Act.

We trust these comments will be of assistance to you.

Yours truly,  
Nerill Thomas-Wilkinson, CPA, CA  
Manager  
for Director  
Business and Employment Division  
Income Tax Rulings Directorate  
Legislative Policy and Regulatory Affairs Branch